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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,271	06/27/2001	Hans-Uwe Baumann	037 / 49843	1615

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EXAMINER	
VAN PELT, BRADLEY J	
ART UNIT	PAPER NUMBER
3682	

DATE MAILED: 02/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/891,271

Applicant(s)

BAUMANN ET AL.

Examiner

Bradley J Van Pelt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-11 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, and 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Counts.

Regarding claims 1, 6, and 9 Counts, in figure 1, discloses a mounting plate (28) on which an accelerator pedal (110), a brake pedal (78), and a clutch pedal (79) are swivellably disposed, wherein the clutch is swivallably held in an insert (82), which forms a pre-assembled construction unit. The construction unit is fastened between projecting legs (24) and (26) of the mounting plate and is optionally removable.

Regarding claims 2, 7, and 10, Counts discloses, in figure 1, a continuous bearing bolt (30), to which the insert can be fastened, and a screw (96) that fastens between the projecting legs (24, 26) of the mounting plate (28).

Regarding claims 3, 8, and 11, Counts discloses, in figure 1, an insert (82) that has a U-profile-shaped cross section. Counts also discloses that the bearing bolt (30) and the screw (96) are arranged at a vertical distance from each other.

### ***Allowable Subject Matter***

3. Claims 4 and 5 are objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

***Response to Arguments***

4. Applicants' arguments filed January 13, 2003 have been fully considered but they are not persuasive.

The applicants' position is that the Counts reference does not anticipate the instantly claimed invention. Further, applicant states that Counts does not suggest a mounting plate on which an accelerator pedal, a brake pedal, and a clutch pedal are swivellably disposed, wherein the clutch pedal is swivallably held in an insert, which forms a pre-assembled construction unit or the construction unit is fastened between projecting legs and of the mounting plate and is optionally removable.

The applicants believe the limitation "optionally removable" should be read in light of the specification. When applicants' claims are given their broadest reasonable interpretation, the Counts reference anticipates the instantly claimed invention, as the pre-assembled constructional unit of counts is optionally removable. The relative ease at which something is removable is a relative term; therefore, the limitation does not distinguish the instantly claimed invention.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley J Van Pelt whose telephone number is (703)305-8176.

The examiner can normally be reached on M-Th 7:00-4:30, 2nd F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703)308-3668. The fax phone number for the organization where this application or proceeding is assigned is (703)305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-2168.

BJVP   
February 3, 2003

 2/5/03  
DAVID A. BUCCI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600